



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

DEVAL L. PATRICK
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Lieutenant Governor

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Secretary

LAURIE BURT
Commissioner

March 5, 2010

CERTIFIED MAIL

Mr. William Thibeault
New Ventures Associates, LLC
85-87 Boston Street
Everett, Massachusetts

Re: NEWBURYPORT – Solid Waste/COR
Crow Lane Landfill
FMF # 39545
**Notice of Intent to Issue Notice
And Instructions To Trustee**

Richard A. Nylén Jr, Attorney at Law
Lynch, DeSimone & Nylén, LLP
12 Post Office Square
Boston, MA 02109

Dear Mr. Thibeault and Mr. Nylén:

New Ventures LLC (“New Ventures”) has failed to carry out its corrective action and/or closure maintenance obligations at the Crow Lane Landfill located on Crow Lane in Newburyport, Massachusetts (the “Landfill”) required by applicable plans, Orders, and approvals issued by the Massachusetts Department of Environmental Protection (“MassDEP” or the “Department”) and by the Settlement Agreement and Final Judgment in *Commonwealth of Massachusetts v. New Ventures Associates, LLC*, Suffolk Superior Court Civil Action No. 06-0790-C, as amended by Orders of the court on May 27, 2009 and October 7, 2009 (the “Final Judgment”) for completing closure of the Landfill.

On February 26, 2010, you reported to MassDEP that strong winds, on or about February 25, 2010, had blown a portion of the flexible membrane liner impermeable landfill cap (the “FML”) off of the Landfill and rendered up to three (3) landfill gas extraction wells inoperative. On February 26 and 27, 2010, MassDEP personnel and MassDEP’s consultant, Shaw Environmental, Inc. of Salem, New Hampshire (“Shaw”) observed that approximately 1.5 acres of the FML had been blown off of the southwestern portion of the Landfill, thereby exposing the underlying geotextile gas vent layer. Personnel from MassDEP and Shaw also observed that components of the landfill gas extraction system were damaged, including, without limitation landfill gas extraction wells EW-10, EW-11 and EW-12, which had been rendered inoperative. Although New Ventures has implemented temporary measures to isolate the inoperative gas extraction wells and has attempted to secure the edges of the remaining FML with sand bags, New Ventures has not replaced the FML lost to wind damage, repaired the damaged FML, or restored to operation extraction wells EW-10, EW-11 and EW-12.

Previously, New Ventures informed MassDEP that New Ventures does not have the revenues to pay for certain closure activities required by the Final Judgment, including, most recently the repair of the damaged FML and gas extraction wells.


In summary, as of the date of this Notice, New Ventures has failed to perform corrective actions and closure work required by the Final Judgment and 310 CMR 19.000, including, without limitation, replacement and repair of the FML lost to or damaged by wind and the repair or replacement of the inoperative gas extraction wells EW-10, EW-11 and EW-12.

Accordingly, pursuant to Paragraph 6(a) of the Standby Trust Agreement, the Department hereby notifies New Ventures of the Department's intention, within fourteen (14) days from New Ventures' receipt of this Notice, to send written notification (such notification is termed a "Default Notice" in the Trust Agreement) to the Trustee of New Ventures' failure to conduct the foregoing actions required by the Final Judgment and by 310 CMR 19.051. Such notice shall, at a minimum, instruct the Trustee that the Department is securing exclusive direction and control over the transfer, use and disbursement of the security for the purpose of effecting the repairs to the FML and gas extraction wells including but not limited to directing the holder of the financial assurance mechanism to reimburse the Department for actions it or its agents has performed to conduct of such repairs.

In addition, you are reminded that, pursuant to 310 CMR 19.051(2), 6(a) and (7), the Standby Trust Account must contain sufficient funds to pay for all closure and post-closure maintenance costs and New Ventures must continuously maintain financial assurance that is adequate to assure the Department that New Ventures is at all times financially capable of complying with the provisions of 310 CMR 19.00 governing the closure of this facility and its post-closure maintenance.

Please feel free to contact me by telephone at (978) 694-3299, if you have any questions regarding this Notice.

Sincerely,



John A. Carrigan, Chief
Solid Waste Management Section
Bureau of Waste Prevention

JAC/MD/md

Cc: Mayor Donna Holaday
60 Pleasant Street
Newburyport, MA 01950

Robert Bracey, Director
City of Newburyport
Health Department
60 Pleasant Street
Newburyport, MA 01950

Mary Reilly, Administrator
City of Newburyport
Conservation Commission
60 Pleasant Street
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Senator Steven A. Baddour
State House
Boston, Massachusetts

Representative Michael A. Costello
State House
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Michael Quatromoni
SITEC Environmental, Inc
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Michael Dingle, MassDEP/OGC-Boston (by email)

Matthew Ireland, Office of the Attorney General, Boston, MA (by email)

Eric Fahle DEP/Boston – BWP

CERTIFIED MAIL: 7009 2250 0001 5078 7070 (Thibeault)
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